THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO. 24884 OF 2005

Dated 2nd December 2005

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Between:

P.Brahmaiah S/o.P.Saibu

…Petitioner

And

The Presiding officer,

Industrial Tribunal-cum-Labour Court, Warangal & another

…Respondents

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

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O R D E R:

The petitioner was employed as conductor in the APSRTC, way back in the year 1981. Disciplinary proceedings were initiated against him, and he was removed from service, through order, dated 25.11.1981. The petitioner raised an industrial dispute, through I.D.No.634 of 1987, on the file of the Industrial Tribunal-cum-Labour Court, Warangal. The Labour Court passed an award, dated 12.2.1990, setting aside the order of removal and directing the appointment of the petitioner, afresh, as cleaner.

Petitioner filed W.P.No.30692 of 1998, challenging the award of the Labour Court, insofar as it directed reinstatement of the petitioner as cleaner. The writ petition was ultimately allowed, on the ground that the petitioner should not have been appointed to a post lower than the one, in which he was initially appointed. The matter was remanded to the Labour Court, for fresh consideration.

After remand, the Labour Court passed an award, dated 24.9.2004, confirming the order of removal dated 25.11.1981, and dismissing the I.D. Hence, this writ petition.

Learned counsel for the petitioner submits that the petitioner has been working as cleaner for the past 16 years, and when he made an effort to get a further benefit, it has resulted in total denial of livelihood. Even now, the petitioner is agreeable to be continued as cleaner.

Learned Standing Counsel, on the other hand, submits that once the Labour Court supported the order of dismissal, this Court cannot interfere with the same.

If at all any one, it is the petitioner that has to squarely blame himself, for the present state of affairs. It is true that there was some technical defect in the award passed by the Labour Court, on earlier occasion. In his anxiety to get a higher relief, the petitioner approached this Court, and accepting his contention, this Court set aside the award and remanded the matter to the Labour Court.

It is true that, on remand, it was open to the Labour Court to appreciate the matter afresh. The charge against the petitioner is that he collected the fare of 0-50 ps., in excess of the usual fare, from passengers. In the previous round of litigation, the Labour Court invoked its powers under Section 11-A of the Industrial Disputes Act, and directed reinstatement of the petitioner, taking note of the fact that the petitioner was removed from service, within one month from the date of his appointment. It is represented that in the recent past, the Supreme Court upheld the power of appointing authority to impose the punishment of appointment to a post inferior to the one, in which the employee was initially appointed. The necessity for this Court to delve into that aspect is obviated on account of the fact that the petitioner expressed his willingness to work as cleaner.

For the foregoing reasons, the writ petition is partly allowed, modifying the award of the Labour Court, dated 24.9.2004, to the one of reinstatement of the petitioner as cleaner, on the same terms, as were imposed in the previous Award dated 12.2.1990. There shall be no order as to costs.

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2nd December 2005

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